

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	
OPIATE LITIGATION)	MDL 2804
)	
THIS DOCUMENT RELATES TO:)	Case No. 1:17-md-2804
)	
<i>County of Peach, Georgia v. Purdue</i>)	Judge Dan Aaron Polster
<i>Pharma, et al.</i>)	
<i>Case No. 1:18-op-45579-DAP</i>)	
)	
<i>County of Woodbury, Georgia v. Purdue</i>)	
<i>Pharma, et al.</i>)	
<i>Case No. 1:18-op-45575-DAP</i>)	
)	
)	

**DEFENDANT U-SAVE-IT PHARMACY, INC.’S
MOTION TO DISMISS WITH PREJUDICE
FOR UNTIMELY SERVICE**

Defendant U-Save-It Pharmacy, Inc.¹ (“U-Save”) moves, pursuant to Federal Rules of Civil Procedure 4(m), 12(b)(4), 12(b)(5), 41(b), and the Court’s April 6, 2023 Order Regarding Service of Process (Doc. #4986, Case No. 1:17-md-02804-DAP) (the “Order”) to dismiss both of the Complaints filed against it for untimely service, as described more fully below.

Plaintiffs County of Peach, Georgia and City of Woodbury, Georgia (“Plaintiffs”) originally filed their respective complaints on May 15, 2018—*over five years ago*. (Doc. #1, Case No. 1:18-op-45579-DAP; Doc. #1, Case No. 1:18-op-45575-DAP). On March 15, 2019, the

¹ At various points, the Plaintiffs have also referenced “U Save It Pharmacy, LLC.” To the best of U-Save’s knowledge, “U Save It Pharmacy, LLC” does not exist. The correct entity name—and the entity that was served—is U-Save-It Pharmacy, Inc.

Plaintiffs filed their respective Amended Complaints, which added numerous defendants, including the movant here, U-Save. (Doc. #2, Case No. 1:18-op-45579-DAP; Doc. #2, Case No. 1:18-op-45575-DAP).

Under Rule 4(m), the Plaintiffs had 90 days from the filing of their Amended Complaints—*i.e.*, until June 13, 2019—to serve U-Save. *See* Fed. R. Civ. P. 4(m). Both Plaintiffs, however, failed to serve U-Save within the required 90-day period. In fact, it took both of the Plaintiffs approximately four *years* to untimely serve U-Save in violation of the Federal Rules of Civil Procedure, as explained more fully below.

Where a plaintiff fails to make service within the 90-day period imposed by Rule 4(m), the Court is required to either “dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

To that end, this Court issued its Order on April 6, 2023. In that Order, the Court stated, “[t]here is no question that service was not made in many MDL cases against many defendants within 90 days after the complaint was filed.” (*Order* at 3).

Rather than dismiss the claims filed against unserved defendants, the Court instead ordered that service be made within 45 days from the date of its Order—*i.e.*, that service be made on or before May 22, 2023. (*Id.* at 5). The Court emphasized that “failure to comply [with that deadline] . . . ***will result in dismissal with prejudice*** pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute.” (*Id.* at 5) (emphasis in original).

In violation of the Court’s Order, both Plaintiffs failed to serve U-Save by the Court-imposed May 22, 2023 deadline. Recognizing their own failures, the Plaintiffs each filed a “Notice Regarding Service of Summons” on May 22, 2023, expressly acknowledging they had both failed to serve U-Save. (Doc. #29, Case No. 1:18-op-45579-DAP; Doc. #16, Case No. 1:18-op-45575-DAP).

The only explanation the Plaintiffs offered for their undisputed failure to timely serve U-Save was that they allegedly could not “locate contacts” for U-Save. (Doc. #29, Case No. 1:18-op-45579-DAP at ¶ 2; Doc. #16, Case No. 1:18-op-45575-DAP at ¶ 2). This explanation is nonsensical. U-Save is a corporation who—like other Georgia corporations—has registered with the Georgia Secretary of State and publicly disclosed its registered agent information in a format that is easily accessible and free-of-charge to anyone through an online public database.² See (Ex. A, Printout from the Georgia Corporations Division’s Business Search Database, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=767600&businessType=Domestic%20Profit%20Corporation&fromSearch=True>).

Indeed, that public online database shows that U-Save’s registered agent for accepting service of process is Beverly Moody located at 1504 Hwy 19 South, Leesburg, GA 31763. (*Id.*) In fact, on May 23, 2022, the Plaintiffs belatedly served U-Save at that precise address. (Ex. 2, Return of Service). There is no reason here why Plaintiffs could not have served U-Save by the deadline ordered by this Court.

In summary, the Plaintiffs belatedly served U-Save approximately four *years* after the original 90-day deadline required by Rule 4(m) elapsed, and one day after the subsequent 45-day deadline imposed by the Court’s Order elapsed. As this Court has already ruled, the consequence for failing to comply with the aforementioned Order is dismissal with prejudice. (Doc. #4986, Case No. 1:17-md-02804-DAP at 5).

WHEREFORE, for each and every of the foregoing reasons, Defendant U-Save requests, pursuant the Court’s Order, that the Court dismiss with prejudice both Complaints against it under Federal Rules of Civil Procedure 4(m), 12(b)(4), 12(b)(5), and 41(b).

² A search of this data base using the terms "U Save It" or "U-Save-It" regardless of hyphenation retrieves the U-Save's corporate information.

Respectfully submitted this 13th day of June, 2023,

/s/ Jeffrey S. Dunlap

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EXHIBIT 1



GEORGIA CORPORATIONS DIVISION

GEORGIA SECRETARY OF STATE
**BRAD
RAFFENSPERGER**

[HOME \(/\)](#)

BUSINESS SEARCH

BUSINESS INFORMATION

Business Name: **U-SAVE-IT PHARMACY, INC.** Control Number: **J900067**

Business Type: **Domestic Profit Corporation** Business Status: **Active/Compliance**

Business Purpose: **NONE**

Principal Office Address: **1504 US HWY 19 S, Leesburg, GA, 31763, USA** Date of Formation / Registration Date: **1/3/1989**

State of Formation: **Georgia** Last Annual Registration Year: **2023**

REGISTERED AGENT INFORMATION

Registered Agent Name: **Beverly Moody**

Physical Address: **1504 Hwy 19 South, Leesburg, GA, 31763, USA**

County: **Lee**

OFFICER INFORMATION

Name	Title	Business Address
BEVERLY MOODY	Secretary	P.O. BOX 72148, ALBANY, GA, 31708, USA
Robert Sharpe	CEO	PO Box 72148, Albany, GA, 31708, USA
TOMMY SHARPE	CFO	P.O. BOX 72148, ALBANY, GA, 31708, USA

[Back](#)[Filing History](#)[Name History](#)[Return to Business Search](#)

EXHIBIT 2

OCESSSERVICE

Job: 8885247

Due: _____

—SÀss Avenue

Recipient: U Save It Pharmacy, Inc.

TX 75204

Server: Lee County Sheriffs Office

Fee: _____

Rzt-,e 1-800-361-2611

Case	1:18-op-45575	Plaintiff	THE CITY OF WOODBURY, GEORGIA
Court	UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO	Defendant	PURDUE PHARMA INC., ET AL.
Documents	SUMMONS; COMPLAINT, JURY TRIAL DEMANDED; SHORT FORM FOR SUPPLEMENTING COMPLAINT AND AMENDING DEFENDANTS AND JURY DEMAND		
Instructions			
***PLEASE SERVE DOCUMENTS TO REGISTERED AGENT: BEVERLY MOODY			

Address

U Save It Pharmacy, Inc.

1504 Hwy 19 South, Leesburg, Georgia 31763

Date & Time:

Description of Service / Recipient:

05-23-23 1450 CORPORATE / BEVERLY MOODY, REGISTERED AGENT

OS—z3

Age: Gender: Ethnicity: Weight:

Height: Hair: Eyes: Relationship:

S S

ABC PROCESS SERVICE

Job: 8885058

Due:

4834 Swiss Avenue

Recipient: U Save It Pharmacy, Inc.

Dallas, 75204

Server: Lee County Sheriff's Office

Fee:

Phone 1-800-361-2611

case	1:18-op-2S579	Plaintiff	THE-COUNTY OF PEACH, GEORGIA
Court	UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA	Defendant	PURDUE PHARMA INC., ET AL.
Documents	SUMMONS, COMPLAINT, JURY DEMAND DEFENDANTS AND JURY DEMAND DEMANDED; SHORT FORM FOR SUPPLEMENTING COMPLAINT AND AMENDING		
Instructions			
AGENT: BEVERLY MOODY			

Address

U Save It Pharmacy, Inc.

1504 Hwy 19 South, Leesburg, GA 31763

Age: _____ Gender: _____ Ethnicity: _____ Weight: _____

Height: _____ Hair: _____ Eyes: _____ Relationship: _____

S-5-9

Date & Time:

Description of Service Recipient:

05—2.3-23 i •+50

CORPORATE / BEVERLY

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